



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Board of Housing and Community Development
VAC Chapter Number:	13 VAC 5-31-10 et seq.
Regulation Title:	Virginia Amusement Device Regulations
Action Title:	General Revision
Date:	October 15,2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

To initiate a review and re-evaluation of the regulation to determine if it should be continued, amended, or terminated. And to consider amending the regulation by incorporating by reference updated standards of the American Society for Testing and Materials (ASTM) for the regulation of amusement devices. And to also put before the public selected proposed changes submitted to the BHCD by the Virginia Amusement Device Technical Advisory Committee.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

§ 36-98.3 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+36-98.3>), gives the Board of Housing and Community Development (BHCD) the power and duty to

promulgate regulations pertaining to the construction, maintenance, operation and inspection of amusement devices and that the regulations shall include provisions for the following:

1. The issuance of certificates of inspection prior to the operation of an amusement device;
2. The demonstration of financial responsibility of the owner or operator of the amusement device prior to the operation of an amusement device;
3. Maintenance inspections of existing amusement devices;
4. Reporting of accidents resulting in serious injury or death;
5. Immediate investigative inspections following accidents involving an amusement device that result in serious injury or death;
6. Certification of amusement device inspectors;
7. Qualifications of amusement device operators;
8. Notification by amusement device owners or operators of an intent to operate at a location within the Commonwealth; and
9. A timely reconsideration of the decision of the local building department when an amusement device owner or operator is aggrieved by such a decision.

The statute also provides that the provisions of §36-97 et seq. of the Code of Virginia and the USBC shall apply to amusement devices, to the extent they are not superseded by the provisions §36-98.3 of the Code of Virginia and the Virginia Amusement Device Regulations.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The BHCD has determined that the proposed regulatory action is essential to protect the health, safety or welfare of citizens because with the adoption of updated ASTM standards and by allowing the public to review selected proposed changes recommended by the Virginia Amusement Device Technical Advisory Committee will lead to more consistent regulatory enforcement and interpretation and to safer amusement devices for the citizens of the Commonwealth.

The lists of potential issues that may need to be addressed as the regulation is developed are the following:

- (a) To amend the regulation to limit the local building department's fees for an amusement device permit to a maximum of \$150 for one site when a private inspector conducts the inspection.
- (b) To amend the regulation to add the following three (3) new referenced standards for the regulation of amusement devices:
 - F1950-99, Standard Specification for Physical Information to be Transferred With Used Amusement Rides and Devices;
 - F1957-99, Standard Test Method for Composite Foam Hardness-Durometer Hardness; and

F2007-00, Standard Practice for the Classification, Design, Manufacture, and Operation of Concession Go-Karts and Facilities.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The specific alternatives to the anticipated proposal that have been considered or will be considered to meet the essential purpose of the action are, to continue with the current amusement device regulations for Virginia for another three or more years, given that there are relevant updated ASTM standards available.

During the entire regulatory adoption process for these amendments the BHCD will consider all less burdensome and less intrusive alternatives suggested or recommended which achieve the essential purpose as required by statute.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The agency's preliminary analysis of the potential impact of this proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will be, is to neither:

- 1 - strengthen nor erode the authority and rights of parents in the education, nurturing, and supervision of their children;
- 2 - encourage nor discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents;
- 3 - strengthen nor erode the marital commitment; and
- 4 - increase nor decrease disposable family income.